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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,219	09/12/2003	Donna J. Duchek	2471-000002/US/CPB	9115
28997	7590	02/08/2006	EXAMINER	
HARNESS, DICKEY, & PIERCE, P.L.C			MAI, TRI M	
7700 BONHOMME, STE 400			ART UNIT	
ST. LOUIS, MO 63105			PAPER NUMBER	
			3727	
DATE MAILED: 02/08/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,219

Applicant(s)

DUCHEK, DONNA J.

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 01/06/04 ; 09/12/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. Claims 1-20 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 10/108987 and 10/751505.

Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art to provide the claims as set forth in this application.

2. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation "at least two walls pivotally coupled along at least two junctures" is inconsistent. The two walls only coupled along one juncture.

3. Claims 1, 3, and 6-11 are rejected under 35 U.S.C. 102 (b) as being anticipated by Drawbaugh (676393). Drawbaugh teaches an expandable container comprising at least two walls A-C pivotally coupled along at least two junctures so as to lie substantially flat in a collapsed position as shown in Fig. 4, a flap E' pivotally coupled to at least one of the walls, a pull cord pivotally moves the flap relative to the walls thereby expanding the walls apart from one another from the collapsed position to an expanded position as shown in Fig. 2, a lid D pivotally coupled to at least one of the walls between a closed and open position, the cord being adapted to be disposed over the lid and removably engageable to the container to retain the lid in the closed position as shown in Fig. 3.

Regarding claim 3, the functionality of claim 3 does not impart any structure over the container of Drawbaugh.

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4. Claims 1, 2, 6-12, 15, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Beecher (696928). Beecher teaches a container having at least two walls 1,2 pivotally coupled along at least two junctures so as to lie substantially flat in a collapsed position as shown in Fig. 3, a flap E' pivotally coupled to at least one of the walls, a pull cord 10 pivotably moves the flap relative to the walls thereby expanding the walls apart from one another from the collapsed position to an expanded position as shown in Fig. 3, a lid 3 pivotably coupled to at least one of the walls between a closed and open position, the cord being adapted to be disposed over the lid and removably engageable (via the holes) to the container to retain the lid in the closed position as shown in Fig. 3.

Regarding claim 2, note the notches 19.

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beecher. It would have been obvious to one of ordinary skill in the art to hold one cord "d" still and pulling the other chord d to provide an alternative means for erecting the container.

6. Claims 1, 3-11, 15-17, 19, and 20 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Dreyspring (21748) in view of Tahl (331568). Dreyspring teaches container having at least two walls, a flap coupled to the flap to move the flap from a collapsed position to an expanded position, a lid pivotably coupled to the at least one walls for pivotable movement between an open position and an opening position. Dreyspring meets all claimed limitations except for the cord being adapted to be disposed over the lid. It would have been obvious to one of ordinary skill in the art to extend the cord so that it disposed over the lid as taught by Tahl to provide an alternate means for protecting securing the box.

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7. Claims 1, 3- 7, 9-11, 15-17, 19, and 20 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Haas (616869) in view of Kane(692301). Haas teaches container having at least two walls, a flap coupled to the flap to move the flap from a collapsed position to an expanded position, a lid pivotably coupled to the at least one walls for pivotable movement between an open position and an opening position. Haas meets all claimed limitations except for the lid and cord being adapted to be disposed over the lid. It would have been obvious to one of ordinary skill in the art to provide a lid and having the cord disposed over the lid as taught by Kane to protect the contents.

Regarding claims 16, , It would have been obvious to one of ordinary skill in the art to hold one cord “d” still and pulling the other chord d to provide an alternative means for erecting the container.

8. Claims 13, and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai
Primary Examiner
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